

**MINUTES OF REGULAR MEETING
ILLINOIS GAMING BOARD
FEBRUARY 17, 1998
CHICAGO, ILLINOIS**

NOTE: ITEMS IN **BOLDFACE PRINT** REFLECT OFFICIAL BOARD ACTIONS

The Illinois Gaming Board ("Board") held its Regular Meeting on February 17, 1998 in the auditorium on the 5th floor of the State of Illinois Building, Chicago, Illinois, pursuant to the Illinois Open Meetings Act, 5 ILCS 120.

The following Board Members were present: J. Thomas Johnson, Chairman; and Members William B. Browder, Gayl S. Pyatt and Robert F. Vickrey.

Also in attendance were: Administrator Michael A. Belletire, Deputy Administrator Kevin Lockhart, Chief Legal Counsel Mareile' B. Cusack, other members of the staff, the media, the general public and interested parties.

Chairman Johnson called the meeting to order at 9:30 a.m. Member Pyatt moved **that the Board retire to Closed Session pursuant to Section 2(c), paragraphs (1), (4), (11), (14) and (21) of the Open Meetings Act, to discuss the following subject matters:**

- 1. Issues Concerning Applicants and Licensees**
- 2. Recommendations of Administrative Law Judges**
- 3. Litigation**
- 4. Investigatory Matters**
- 5. Personnel Matters**
- 6. Closed Session Minutes**

Member Vickrey seconded the motion. The Board adopted the motion by unanimous consent.

The Board convened in Open Session at 12:25 p.m.

Board Minutes

Member Vickrey moved **that the Board approve the minutes from the open and closed sessions of the January 20, 1998 regular meeting.** Member Browder seconded the motion. The Board approved the motion unanimously by voice vote.

Chairman's Report

The Chairman noted two additions to the agenda. Under the Owner Licensee section of the agenda, Empress' request for a preventive maintenance cruising waiver was inadvertently left off the agenda and has been added as an item for initial consideration. Also added is a request by Empress to sell a tangible company asset.

The Chairman reported that he and the Administrator met earlier in the month with Martha Roberts, Deputy Director of the National Gambling Impact Study Commission. The Commission announced that it will convene a meeting in Chicago on May 20 and 21, 1998. Chairman Johnson stated that the discussion with Ms. Roberts focused on items they felt should be included on the Commission's agenda for its Chicago meeting. The items suggested for the agenda included: discussion of the tourism and economic development aspects of Illinois' law; the fact that Illinois and other midwest jurisdictions impose geographic and access limits to casino gambling; the role of gaming tax revenues as a government revenue source; and, an exploration of "Who gambles?" on midwest riverboat casinos. The Chairman asked the Administrator to confirm the Board's interest in these topics with the Commission's Chairperson, Kay James.

Administrator's Report

Administrator Belletire summarized the following monthly statistical reports: Adjusted Gross Receipts; Underage Patrons; Cruise Disruptions/Cancellations; Credit Issuance; and, Internal Control System changes. The Administrator noted that overall AGR dropped from 1996 to 1997 by 6.8 percent. AGR from table games dropped by 14.5 percent (\$47 million) in 1997, while EGD-AGR fell by only 3.7 percent (\$30 million) for the year.

The Administrator also reported that:

- The Annual Report, due to the Governor on March 1, is being finalized by Marianne Floriano. Draft copies will be shared with Board members shortly.
- The Patron Survey, conducted in the summer of 1997, will be published in the Annual Report.
- Board members were given a report compiled by the New Jersey Gaming Commission which was presented to the National Gaming Study Commission this past month.
- On February 12, the three member hearing panel met concerning the Casino Queen contract issues. The panel is expected to file its report within two weeks.

Owner Licensee Items

PAR-A-DICE GAMING COMPANY (“PGC”) - Judy Campbell, representing PGC, requested initial consideration for a waiver under Board rule 3000.260 from the requirement to license hotel employees. Ms. Campbell reported that certain hotel employees have no interactions with the casino.

Chairman Johnson noted that Players/SIRCC is requesting the same waiver. Michael Ficaro, representing SIRCC, stated that Player’s Hotel employees do not interact with the casino at any level.

EMPRESS CASINO JOLIET - John Costello, representing Empress, requested initial consideration of a refinancing proposal. He stated that Empress desires to retire \$150 million of 10 3/4% notes due 2002. The notes would be replaced with bank debt, new notes or a combination of both sources. Mr. Costello stated that when the notes are retired the financial relationship between Empress Hammond and Empress Joliet will be severed.

Chairman Johnson noted that Empress has two different alternatives being considered and asked when Empress will make a final decision. Mr. Costello stated that the Empress board members and shareholders will meet the first week of March to decide which avenue to take.

Mike Hansen, representing Empress, requested initial consideration to conduct preventive maintenance and an underwater hull survey. Mr. Hansen stated that Empress is waiting for the U.S. Coast Guard in Washington D.C. to decide if the Empress I needs to complete the hull survey.

Mr. Hansen also requested approval for Empress to sell tangible personal property and requested a waiver of the two meeting rule. The property subject to sale is a Citation airplane.

Member Vickrey moved **that the Board waive the two meeting rule to consider the request for the sale of an asset submitted by Empress Casino Joliet.** Member Browder seconded the motion. The Board approved the motion unanimously by voice vote.

Member Vickrey moved **that the Board approve the sale of an asset (an airplane), owned by Empress.** Member Browder seconded the motion. The Board approved the motion unanimously by voice vote.

SOUTHERN ILLINOIS RIVERBOAT CASINO CRUISES (“SIRCC”) - Patrick Madamba, representing SIRCC and Player’s International, Inc. (“PII”), requested

approval for an \$80 million line of credit with the Wells Fargo bank consortium, to replace its existing line of credit. PII anticipates paying an interest rate of approximately 8.2 percent on this extended line of credit compared to the 11 percent it was paying.

Member Browder moved **that the Board approve the proposed financing agreement pursuant to which an \$80 million Line of Credit is provided to Players by Wells Fargo and a consortium of banks. This approval is subject to the Administrator's review and approval of the final terms of the Line of Credit agreement.** Member Pyatt seconded the motion. The Board approved the motion unanimously by voice vote.

Michael Ficaro, representing SIRRC and PII, requested renewal of its owner's license. Jeanne Moeller, Senior VP of Construction & Development for Players Services, reported the developments and improvements made to the Metropolis site. Jeff Pfieffer, Vice President of Marketing for Players International, noted the company's Metropolis property has been renamed the "Players Island Casino". Mr. Pfieffer provided information on the licensee's patron base, visitation and revenue volume.

Mr. Pfieffer stated that Players' growth projections for Metropolis for 1998 suggest passenger counts will increase by 10 to 15 percent. In response to a question from Chairman Johnson, Mr. Pfieffer stated that its hold percentage decreased, by 1 percent, due to a conscious effort to loosen slots.

Member Vickrey complimented Players on its presentation and accomplishments. He noted that last year Players lacked direction in its marketing program but stated that the plan Players has implemented appears to be working.

The Administrator recommended renewal of Players owner's license while noting staff concerns. The Administrator observed that during the past year, the licensee: (1) had entered a loan agreement with a subsidiary of its parent company, prior to receiving approval from the Board; (2) exhibited problems in the management of its surveillance system; and, (3) made changes in credit practices that substantially increased the amount of delinquent credit owed the licensee. The Administrator indicated that these operating issues were still under review by the Board staff and that the licensee was cooperating in reconciling staff's concerns.

Chairman Johnson noted that in 1996 and 1997 SIRCC made significant distributions from the licensee to the parent. He asked SIRCC to comment on the distributions being made and used to capitalize Player Resources, Inc. ("PRI") and to discuss where PRI gets its capitalization. Chairman Johnson stated there has been a draw of distribution out of the licensee and a working capital loan back through PRI. He asked Mr. Madamba to explain Players' strategy as to why significant distributions out of the licensee are then apparently replaced with the inter-company loan.

Mr. Madamba stated that PRI is capitalized by PII, primarily as a result of external borrowing. He indicated that the company has a substantial cost of capital. He described PII's general policies and practices with regard to attributing the costs of capital to its operating subsidiaries.

Chairman Johnson asked staff to have the licensee submit a detailed analysis of where PRI has invested its capital. The Chairman's interest is to make sure that the capital costs that are shared among all the entities are properly attributed to the correct entity. He would like the licensee to address how the capital is deployed to charge interest down to the operating units and to address where the inter-company interest cost is charged.

The Chairman asked Mr. Madamba to comment on other PII subsidiaries that are or have made charges to the Illinois licensee. Mr. Madamba stated that one such subsidiary, Players Entertainment, is a dormant company and has made no charges. He indicated that Players Services provides corporate and administrative services to each of PII's operating subsidiaries. Charges to these subsidiaries are made on a cost allocation basis that has been approved by Board staff.

Member Pyatt moved **that the Board renew the owner's license of Southern Illinois Riverboat Casino Cruises, Inc. ("SIRCC") for a period of one year commencing in February, 1998. In renewing this owner's license the Board orders the following:**

- 1. SIRCC must formalize its inter-company relations and procedures with regard to loans and distributions and, where necessary, obtain prior Board or Administrator approval of particular inter company transactions;**
- 2. SIRCC must work with staff to revise its surveillance and reporting procedures;**
- 3. SIRCC must provide a report to the Board analyzing its credit policies and review its Internal Control procedures as they relate to these policies.**

Member Browder seconded the motion. The Board approved the motion unanimously by voice vote.

PAR-A-DICE GAMING COMPANY ("PGC") - Donald Snyder, President of Boyd Gaming Corporation, representing PGC, requested renewal of its owner's license.

Administrator Belletire recommended renewal of PGC's owner's license and stated that PGC has satisfactorily addressed all staff concerns to date.

Chairman Johnson asked if PGC has any capital investments planned for the facility. Ms. Campbell stated that PGC is in the process of making \$3 million in renovations and that PGC has projected a total of \$4 million in capital investments for 1998. She noted that these improvements are financed from internal resources.

Member Browder moved that the Board renew the owner's license of Par-A-Dice Casino for a period of one year commencing February, 1998. In renewing the license the Board orders the following:

- 1. Par-A-Dice is to review the assumptions underlying its financial projections for the years 1998, 1999 and 2000; and,**
- 2. Par-A-Dice is to revise its procurement procedures and controls in a manner which addresses the concerns identified in the staff audit.**

Member Pyatt seconded the motion. The Board approved the motion unanimously by voice vote.

CASINO QUEEN, INC. - John Janicik, representing Casino Queen, requested approval of Frances A. Moore as EGD Manager.

Member Vickrey moved **that the Board approve Frances A. Moore as Level 1 Occupational Licensee of Casino Queen, Inc.** Member Browder seconded the motion. The Board approved the motion unanimously by voice vote.

Supplier Licenses

GDC, INC. - Lloyd Levenson, representing GDC, requested renewal of its supplier's license.

Member Pyatt moved **that the Board approve GDC's application for renewal of its supplier's license. This license is issued for a period of four years, expiring February, 2002.** Member Browder seconded the motion. The Board approved the motion unanimously by voice vote.

PROGRESSIVE GAMES, INC. - Lloyd Levenson, representing GDC, stated that he has met with staff to discuss its concerns and the licensee has cooperated by producing information and documentation as requested. Mr. Levenson requested approval for a restricted one year supplier's license.

Administrator Belletire stated that PGI has cooperated with staff. He noted that an agreement has been reached with PGI about changes that need to be made in the policies,

practices and structure of the company. The Administrator recommended a one year renewal, subject to various contingencies and agreements.

Member Pyatt moved **that the Board approve Progressive Games, Inc.'s ("PGI") application for renewal of its supplier's license and issue PGI a restricted one year license expiring February, 1999. This renewal is subject to and contingent upon PGI effectuating the changes in its corporate business practices, policies and structure set forth in its February 17, 1998 correspondence with the Administrator.**

I further move that the Board order that PGI not distribute, introduce or market any new games, services, products or devices in Illinois, except as expressly and individually approved by the Board; and that PGI not sell or lease additional Caribbean Stud, 21 Superbucks or automatic shuffle devices in Illinois beyond that already in place in Illinois, except as expressly authorized by the Administrator.

Member Browder seconded the motion. The Board approved the motion unanimously by voice vote.

Occupational Licenses

Member Vickrey moved **that the Board approve 67 applications for an Occupational License, Level 2, and 158 applications for an Occupational License, Level 3, and deny 1 application for an Occupational License, Level 2.** Member Browder seconded the motion. The Board approved the motion unanimously by voice vote.

Administrative Hearings/ALJ Reports

Member Browder moved **that the Board deny the hearing requests of Dalyan Davis and Calvin Richardson. The petitioners failed to comply with Board rule 3000.405.** Member Pyatt seconded the motion. The Board approved the motion unanimously by voice vote.

Having reviewed the staff reports, Member Browder moved **that the Board reconsider the applications for licensure submitted by Joseph Danco and Ronald Galster and issue occupational licenses to both individuals.** Member Pyatt seconded the motion. The Board approved the motion unanimously by voice vote.

Board Policy Items

LAKE COUNTY RIVERBOAT, L.P. ("LCRLP") - Representatives of the LCRLP requested recognition by the Board in order to clarify the reasons that this partnership filed for an owner's license on December 30, 1997. Jim Streicker identified himself as the legal representative of this applicant. He indicated the application was filed in December, 1997 so that LCRLP could be in operation in 1999. Mr. Streicker stated that they believe the Riverboat Gambling Act ("Act"), specifically Section 6(d), requires that an application be on file by January 1, 1998 in order to begin operations in 1999.

Mr. Streicker stated that the investors of LCRLP are aware that there is no license available and that HP, Inc. is appealing administratively its July, 1997 non-renewal. The Lake County group is hopeful that a decision is made by the Board to stand by the denial.

Mr. Streicker stated that LCRLP's revenue projections show that in the first year of operation LCRLP should generate between \$29 million and \$61 million in tax revenues. LCRLP feels if a new riverboat licensee is not in operation in 1999 the people of Illinois will lose this tax revenue. He asked that the Board begin reviewing LCRLP's application before a decision is made in the HP case. He stated that LCRLP is willing to incur the cost of an investigation even if the license HP holds does not become available.

Mr. Streicker addressed the issue of where a license needs to be located. He discussed his view of the Board's authority to relocate a license from the Mississippi River to another river in Illinois. Mr. Streicker discussed the advisory opinion from the Attorney General to Senator James "Pate" Phillip. He expressed that the opinion is not binding on the Board nor any court. Mr. Streicker stated that the factual situation has changed since the opinion has been written and he feels the Board has the authority to grant a license off of the Mississippi River under the new circumstances. Mr. Streicker quoted Section 7(e) of the Act granting authority to the Board to issue a new license and stated that, that section of the Act implies that after the first ten licenses have been issued, the Board may issue new licenses in a location off of the Mississippi.

Chairman Johnson asked Chief Counsel Cusack to query the applicant concerning various matters.

Ms. Cusack asked questions of Mr. Streicker as she referred to correspondence from LCRLP to the Board dated February 11, 1998 (Attachment A). Ms. Cusack referred to the second paragraph of Page 2 and asked:

- If it was Mr. Streicker's contention that Section 10-65 of the Administrative Procedures Act would not apply in extending HP's license until the Board has made a final determination. Mr. Streicker stated that it was LCRLP's position that the license does remain in effect until the final order of the Board is issued.

- If Mr. Streicker has had any conversations with either HP or with the Board which would lead him to the conclusion that this hearing will be completed shortly. Mr. Streicker responded no.
- If it was Mr. Streicker's contention that the Board has already made its final decision in this matter. Mr. Streicker responded no.
- If Mr. Streicker has had any conversations with HP indicating that they don't plan on fully pursuing their rights. Mr. Streicker responded no.
- If she (Ms. Cusack) was to conclude that the assumptions Mr. Streicker made in his letter are purely speculative on LCRLP's part. Mr. Streicker stated yes, adding that some of the assumptions were based upon his review of the minutes of prior Board meetings and it is his feeling that the Board will affirm what it did preliminarily.
- If Mr. Streicker understands that there has to be a full de novo hearing and that the Board has to review the entire record and the recommendations of the ALJ before it makes its final determination in the HP matter. Mr. Streicker responded yes.

Administrator Belletire asked Mr. Streicker if he has any basis to assume that the word "may" in the phrase "may issue up to 10 licenses", of Section 7(e) of the Act is intended as permissive and that, that it is an authority for the Board to exercise. Mr. Streicker stated that he interprets "may" to mean may and that may does not mean shall.

The Chairman stated that he feels LCRLP is putting the Board in a position that may give the appearance that the Board is prejudiced with regard to HP, Inc. and its de novo hearing. The Chairman asked Mr. Streicker to respond to the position the Board feels it has been put in by LCRLP. Mr. Streicker stated that he does not think LCRLP's filing prejudices the Board against HP. He stated that LCRLP is asking that the Board proceed to investigate its application. If it turns out that at the conclusion of the de novo hearing the Board reverses itself and grants the renewal of HP's license, than so be it and LCRLP is out the money.

Chairman Johnson asked Mr. Streicker if it would be presumptuous for the Board to order staff to use the limited resources available to investigate its application. Mr. Streicker stated that he does not believe it presumptuous at all. Mr. Streicker further stated that he is not able to address the limited resources of the Board and he expects that whatever it takes to do the investigation that LCRLP will pay the cost.

Ms. Cusack addressed Mr. Glenn Seidenfeld, Chairman & CEO of LCRLP. Ms. Cusack asked Mr. Seidenfeld if he remembered receiving a letter dated January 14, 1997 from Mr. Belletire concerning Fox River Limited Partnership's application. Mr. Seidenfeld responded yes. Ms. Cusack read the correspondence in its entirety (Attachment B). Mr.

Seidenfeld stated that he filed that letter with LCRLP's current application. Ms. Cusack asked Mr. Seidenfeld if he had any reason to believe that there is a license available at this time. Mr. Seidenfeld stated that there may or may not be a license available but that the environment is different now than when they received the letter in January, 1997.

Member Pyatt asked Ms. Cusack to explain Section 6(d) of the Act with respect to the January 1 deadline. Ms. Cusack read from the Act as follows:

"An application shall be filed with the Board on January 1st of the year preceding any calendar year for which an applicant seeks an owner's license."

Ms. Cusack stated that this section of the Act can be interpreted in a variety of ways and that this agency's interpretation has been that Section 6 is a limitation on the applicant, requiring that when they do submit an application they give the Board sufficient time to review the information submitted in order to act accordingly. This agency has not interpreted Section 6 as restricting the Board's ability to award licenses once a full review of the application has been conducted. Ms. Cusack stated that this agency's interpretation of its own rules and its own Act will be given due deference by any reviewing court as established in such cases as *Illinois Consolidated Telephone vs. Illinois Commerce Commission* or *Erie vs. The Department of Revenue*.

Chairman Johnson clarified that this section allows the Board to promulgate a process to request proposals at any time and to license at any time if a license ever became available. The Chairman asked Mr. Streicker for his comments. Mr. Streicker stated that in Section 6(d) (stated above) "shall" means shall and it restricts to a large degree when an owner can become operational.

Chairman Johnson stated that if the Board ever had a license available it would anticipate that many people would be interested in potentially seeking that license. He referenced the January 1997 letter indicating that the Board would likely organize a formal, competitive process should a license become available. Mr. Streicker stated that if the Board changed its procedure for applying for an owner's license LCRLP would modify its application to the extent it was required.

The Administrator commented that similar letters (see Attachment B) were sent to Mirage Riverboat of Illinois, Inc., Sahara Resorts and Capital Gaming International, Inc. He also noted that an applicant's payments for investigative costs do not directly finance Board investigations. The monies submitted by an applicant revert to the state Treasury and cannot be used to pay for staff salaries. Staff costs are fixed by appropriations and, therefore the Board would incur an opportunity cost if it were to devote staff resources to licensure investigative activity that the Board is not responsible for now. He further

stated that investigation of an applicant would take away from some other level of activity and that the Board would not be at liberty to hire staff.

Chairman Johnson stated that he believes that what LCRLP is asking the Board to do could be interpreted as a prejudicial action against the forthcoming HP, Inc. de novo hearing and the Board's responsibilities under the Act to respond to that hearing. The Chairman urged the Board to deny the request for the above stated reason.

Mr. Streicker stated that it is not the intention of LCRLP to prejudice the Board in any way and he requested that the Board investigate its application.

Member Pyatt moved that:

WHEREAS Lake County Riverboat, L.P. ("Lake County") filed an application for an owner's license with the Board on December 30, 1997; and,

WHEREAS Lake County submitted a \$50,000 fee with its application; and,

WHEREAS under the Riverboat Gambling Act ("Act") the Board is authorized to issue up to ten owner's licenses; and

WHEREAS all ten licenses have been issued and there are no owner's licenses available; and

WHEREAS pursuant to Section 5(b)(1) of the Act, the Board must decide all license applications in a prompt and reasonable manner; and

WHEREAS, in awarding any license that may be available in the future, the Board is committed to a process that allows for consideration of all relevant factors and selection from among competing applications;

NOW THEREFORE BE IT RESOLVED that without prejudicing the applicant, the Board denies Lake County's application for an owner's license. In denying the application the Board notes that no judgment has been made regarding the substantive merits and hereby waives the requirement of Board rule 3000.230(e)(2) as to this applicant.

I further move that the Board direct the Administrator to refund the \$50,000 application fee submitted by Lake County.

Chairman Johnson asked Mr. Streicker if he would like to make any comments. Mr. Streicker requested that the Board not deny the application but leave it pending without

action and if and when the Board adopts modified regulations LCRLP will modify its application.

Chairman Johnson asked Lake County if they would like to withdraw its application. Mr. Streicker declined.

Member Vickrey seconded the motion. The Board approved the motion unanimously by voice vote.

Member Vickrey moved **that the Board direct staff to revise the current owner's application form and develop a competitive process to be implemented in the future for the solicitation of applicants for an owner's license and the uniform submission and review of information by each applicant.** Member Browder seconded the motion. The Board approved the motion unanimously by voice vote.

SPECIAL INVESTIGATION REPORT - William O'Connor, outside counsel for the Board, gave his final report on Gaming Board staff contact with certain applicants or potential applicants related to the East St. Louis license. Specifically, he reported to the Board his factual conclusions regarding the Casino Queen licensing matter as they were raised in Senate Resolution 91. He covered the factual basis for the formulation of the Casino Queen investor group; the facts relating to the Gaming Board's role in site selection; and, a discussion of Board communications with third parties regarding the licensing process. Mr. O'Connor also summarized his recommendations for Board and staff communication and procedural guidelines relating to the consideration of new licensee applications.

Chairman Johnson stated that the Board will be taking Mr. O'Connor's recommendations under advisement along with staff analysis of the recommendations. Chairman Johnson asked Mr. O'Connor to provide a copy of his report to Senator Denny Jacobs.

Administrator Belletire stated that one of Mr. O'Connor's recommendations has been implemented by staff. He reported that Ms. Cusack and the Administrator have begun to keep logs of their conversations with prospective applicants.

Chairman Johnson stated that the April Board meeting has been changed from April 21 to April 20. (Note: Subsequent to the February 17 meeting, this date has again been changed, to April 22, 1998.)

There being no further business to come before the Board, Member Pyatt moved **that the Board stand adjourned.** Member Vickrey seconded the motion. The Board approved the motion unanimously by voice vote and adjourned at 2:20 p.m.

Respectfully submitted,

Susan O. Weber
Secretary of the Board